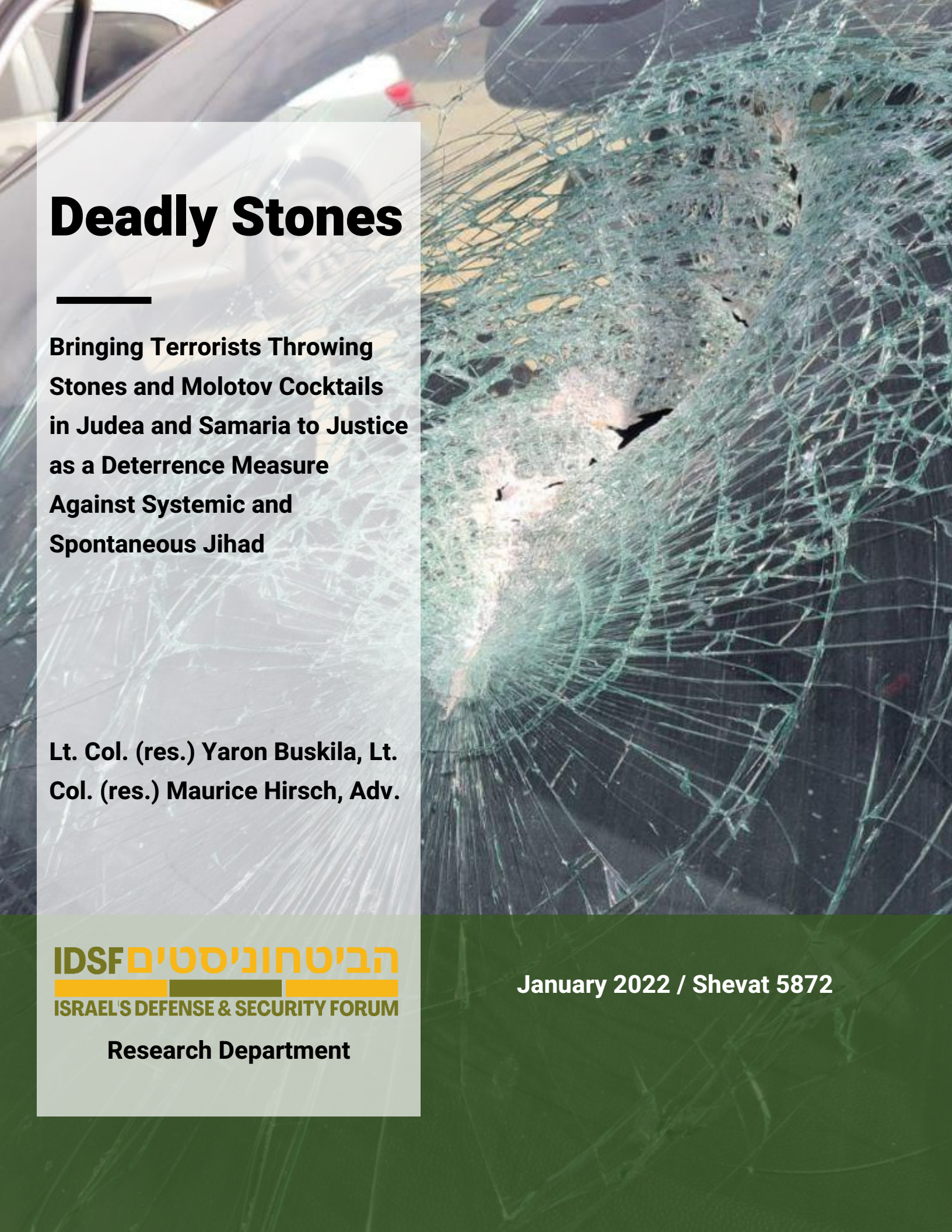




Deadly Stones

**Bringing Terrorists Throwing
Stones and Molotov Cocktails
in Judea and Samaria to Justice
as a Deterrence Measure
Against Systemic and
Spontaneous Jihad**

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הביטחוניסטיים IDSF
ISRAEL'S DEFENSE & SECURITY FORUM

Research Department

January 2022 / Shevat 5872

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Our stand is clear: We believe in the right of the State of Israel to exist within safe borders. We believe that the security interests of Israel are a top priority. Finally, we believe that Israel does not have the option of defeat. Therefore, the IDF should act freely in every area to fulfill its duty and protect the State of Israel.

Our forum is not a political party, but a movement acting according to the aforementioned principles.

Our managing committee: Maj. Gen. (res.) Gershon HaCohen, Maj. Gen. (res.) Yitzhak Gerry Gershon, Professor Alexander Bligh, and Brig. Gen. (res.) Amir Avivi (CEO).

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About the authors of this document



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Published: January 2022 / Shevat 5782

Submitted as background material for a discussion in the Knesset's Public Security Committee regarding: Non-Serving of Justice for persons throwing stones and Molotov cocktails

Tuesday, January 11, 2022, 9th of Shevat 5782

Invited: The Ministry of Public Security, the Israel Police, the Ministry of Defense, IDF, Israel Border Police, Ministry of Transportation and Road Safety, Ministry of Health, Ministry of Justice, State Attorney, Public Defense, The Regional Council Center, Mateh Yehuda Regional Council, Yesha Council, the Courts Administration, Shomron Regional Council, Mateh Binyamin Regional Council, Rescuers Without Borders, Association for Civil Rights in Israel, and the National Labor Federation.

Cover image: Rescuers Without Borders, t.me/hatzhalhyosh

Executive Summary

- **Stone and Molotov cocktail throwing in Judea and Samaria has evolved from a nuisance to a strategic challenge** that undermines the safety of the civil population and contributes to the stability and motivation of Palestinian Jihad. As such, this challenge requires a **comprehensive, multilayered systemic response**.
- The extent of this phenomenon indicates that these are not merely isolated incidents, but **the tip of the iceberg, and indicate systemic institutional incitement for Jihad against Israel**, led by the Palestinian Authority, Hamas, etc.
- These are the most common forms of terrorism based on the availability of weapons, daily interaction with the population, **alongside the absence of operational and legal deterrence**.
- There are currently about 20 known hotspots of stone throwing, mostly along the main routes, as well as specific locations of persistent rioting along the separation barrier ("West Bank Barrier"). The perpetrators are typically aged 10-20, attack IDF units, at times encouraged by local inciters and radical militant organizations.
- 2020 saw 1,884 stone throwing incidents and 496 Molotov cocktail throwing incidents, causing injury to 154 soldiers and civilians. On average, **in 2021, stone throwing incidents increased by 210%, and Molotov Cocktail throwing incidents increased by 156% year on year**.
- **The IDF and the Israeli Police are responding to this threat by ambushing and dispersing these terrorists' gangs, and placing them in detention**. The main challenges in tackling this problem include the density of the areas from which the terror attacks are carried out, local assistance to the perpetrators, the profusion of hotspots where the security forces are required to operate, the operational ineffectiveness of the IDF's tools in dealing with this phenomenon, non-detention or release from detention of the perpetrators, cumbersome rules of engagement, and judicial procedures that lead to lenient sentences.

- A review of all cases opened against perpetrators from 2019 to 2020 **showed a clear picture of significant leniency in the civil and military courts, with much lighter penalties than what the law calls for, to the extent that prison sentences are 95% shorter than the sentences provided by law.** In some cases, sentences are dispensed for only several days to several months of incarceration. **11% of the stone throwing cases do not end in incarceration at all.** The circumstances of the verdicts are unknown and require a case-by-case review.
- The average sentence is **8.3 months for stone throwing and 13 months for Molotov cocktails**, in contrast to the maximum sentence stipulated by law – 10-25 years, depending on the circumstances.
- Furthermore, a comparative analysis of the data revealed that a significant portion of reported incidents do not end with an indictment. During the first half of 2020, **only 21% of the reported stone throwing incidents and 33% of the Molotov cocktail incidents have ended with an indictment.**
- **The obstacles in addressing this challenge** include a lack of coordination between units, a shortage of investigators and combat soldiers, intelligence gaps, and a **“widely-accepted penalty range” culture** in courts which is not in line with the dictates of the law.
- **Our recommendations** include the following: Defining specific areas as high-risk areas for stone and Molotov cocktail casualties., where this constitutes a life-risking terror attack which justifies defensive actions such as shooting for the purpose of neutralizing; concentrated efforts to detain the recruiters, inciters, and instructors of perpetrators; A computerized system with a database that enables improved coordination; and formulating legislation that enables more severe and just penalties for those involved in terror activities.

Table of Contents

Preface.....	7
Data	10
Characteristics of the incidents.....	11
Discrepancies between the penalties provided by law and the penalties ordered by the courts	13
Obstacles to addressing this challenge	15
Recommendations.....	16
Appendix A - Relevant legislative extracts.....	18
Appendix B – Contrasting the Length of Sentences Dispensed by the Courts to the Range of Penalties Mandated by Law	23

Preface

Stone and Molotov cocktail throwing in Judea and Samaria have been among the most common and deadly forms of the Palestinian Jihadi uprising targeting Israelis. **It has evolved from an annoying tactic to a to a strategic challenge that undermines the safety of the civilian population and contributes to the stabilization and development of Palestinian Jihad. As such, this challenge requires a comprehensive, multilayered systemic response.**

Since the early days of the First Intifada, stone throwing by Palestinians targeting vehicles of Israeli civilians and the IDF has become a common phenomenon around Judea and Samaria, including the targeting of vehicles traveling adjacent to the separation barrier (Route 6 and other areas). In addition, Palestinians throw stones at IDF soldiers operating in Judea and Samaria on foot or in vehicles. Stone throwing was one of the most characteristic elements during the early years of the First Intifada (dubbed “**the Stones Intifada**”). However, stone throwing expanded over the following decades. According to IDF data, there are on average around 4000 stone throwing cases annually, 3,000 of which occur toward the routes.

The extent of this phenomenon indicates that these are not merely isolated incidents.

This popular, violent uprising, joined by thousands of Palestinians every year, is merely **the tip of the iceberg in an ecosystem breeding Jihad against Israel** by the Palestinian Authority. This incitement finds expression in Palestinian schoolbooks, state media, and on social media. This worldview is reenforced through a policy of providing stipends to terrorists and by providing jobs for these terrorists into the Palestinian Authority’s bureaucracy upon their release from Israeli prison. This facilitates a culture of delegitimization of the State of Israel. These go hand in hand with the rising popularity of movements such as Hamas, which encourages terror attacks against IDF soldiers and Israeli civilians.

The expansion of this form of terrorism has been enabled by the integration of the following:

1. **Cost** – The relatively simple operational infrastructure required for the execution of this form of terror attack, be it the availability of stones and rocks in the terrain with no significant early preparation, or the relatively simple process of constructing a Molotov cocktail.
2. **Benefit** – Perpetrators obtain their desired outcome relatively easily, namely the level of potential casualties as a result of this terror attack, alongside the desired side effect of decreasing the security of Israelis traveling throughout the region.
3. **Opportunity** - Due to the daily coexistence between the Palestinian and the Israeli population and security forces, on the roads throughout Judea & Samaria, the perpetrators have an abundance of opportunities to carry out these kinds of terror attacks.
4. **Absence of operational deterrence** - Until recently, security forces tended to avoid friction with perpetrators of 'light' terror attacks and focus on the prevention and detention of planners and perpetrators of 'more significant' attacks, such as shooting, kidnapping, bombing attacks, etc. The relatively low risk to the terrorist of being caught led to a cost-benefit analysis which actually encouraged terrorists to choose this form of violent and potentially deadly terrorism as a low risk-high reward venture.
5. **Lack of legal deterrence** - The military and civil courts tend to be lenient with the terrorists and fail to bring them to full justice for various reasons. This is apparent in the discrepancy between the penalties determined by law and the actual penalty given to the perpetrator. In addition, despite the prevalence of stone throwing incidents, few perpetrators are prosecuted in practice. Multiple complaints, possibly the majority of them, are closed by the Israeli Police on the grounds of 'unknown perpetrator'.

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הודעה על החלטה שלא להוסיף לחקור או שלא להעמיד לדין פרטים כלליים

מספר תיק פלא	אחמ חברון	יחידה
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פיקס	נושא המסמך	

סימוכין:
 תלונת מתיר: 12/09/2017
 שהוגשה בידה: חקירות חברון

1. לאחר בדיקת תלונת החלט על סגירת התיק בתאריך 12/09/2017 על ידי יחידה.

רפיק	אריה	מרדכי	רכז מחלק חקירות
דרגה	שם משפחה	תפקיד	

וזאת מן הסיבה: עברין לא נודע.

2. לתשומת לבך, על החלטה מהס' 64 ו-65 לחוק סדר הדין הפלילי, [נוסח משולב], התשמ"ב-1982, לפי סעיפים 64 ו-65 לחוק סדר הדין הפלילי, [נוסח משולב], התשמ"ב-1982, את הערר עליך להגיש באמצעות הגורם שהודיע לך על הסגירה. עליך לציין במפורש כי הינך מגישה ערר על ההחלטה.

הערות:
 * בהתאם לסעיפים 59, 62 (בהתאמה) לחוק סדר דין הפלילי נוסח משולב, התשמ"ב - 1982

בכבוד רב,
 פרטי מפיק הטופס:
 מ"א 574632

שם פרטי	שם משפחה	עוזי
מקום השירות	תפקיד	אחמ חברון
רכז חקירות		

A notice regarding a decision not to conduct legal proceedings for a stone throwing event due to the unknown identity of the perpetrator

Data

In recent years, several people have been murdered in stone throwing attacks, including Asher and Yonatan Palmer, Adele Bitton, Alexander Lavlovich, Ronen Lubarsky and Amit Ben Yigal. Every year, dozens of residents and soldiers are injured as a result of stone throwing. Road accidents are another result of this phenomenon. Today there are **about 20 known hotspots of stone throwing around Judea and Samaria**. Most of these hotspots are permanent ones, along the routes and in permanent riot hotspots along the separation wall ("West Bank Barrier").

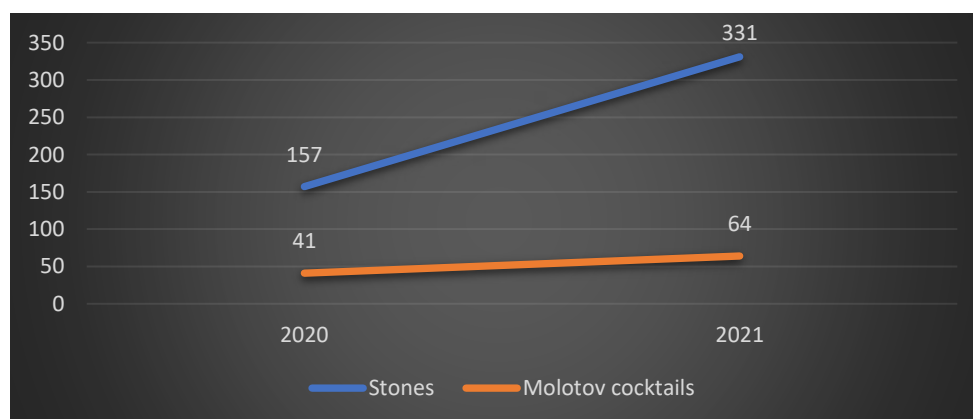
According to data aggregated by rescue entities, throughout 2020, 56 soldiers, 27 border patrol officers and policemen, and 71 civilians were injured in stone throwing incidents.



154

Victims of stone throwing, Molotov cocktails and paint bottles (latter thrown to blind the driver)

Terror attacks in Judea and Samaria, 2020



A 156% increase in Molotov cocktail throwing incidents and a 210% increase in stone throwing incidents between 2020 and 2021*

*Comparison between the monthly average according to the annual data from 2020 and monthly data from December 2021.

Data: Rescuers Without Borders, hatzalah.org.il, t.me/hatzhalhyosh

Characteristics of the incidents

Civilians

1. Stone throwing at vehicle from hilltops or from the sides of the roads.
2. Stone throwing at vehicles or pedestrians from within buildings such as schools or backyards.
3. Stone throwing from passing vehicles.

Soldiers

1. Stone throwing at soldiers during riots in friction hotspots.
2. Stone throwing at soldiers during operational activities.

Profile of the stone throwers and inciters:

1. Local inciters, mostly adults over 20.
2. Radical anarchist organizations entering the villages and encouraging people to riot at the hotspots.
3. Young people aged 16-20 acting mostly against IDF forces.
4. Young people aged 10-20 throwing stones along the roads.

Actions by the IDF and the police against stone throwers:

1. Dispersion
2. Ambush
3. Detentions based on intelligence, restricted mostly to cases of injury.
4. Using lethal force against stone throwers at permanent hotspots along the main routes.

The main challenges in tackling this problem:

1. Stone throwing from densely-populated areas, fortified buildings, easily alternating attack areas, and local assistance to escape.
2. Multiplicity of areas that overwhelm the available forces and tasks.
3. Multiplicity of perpetrators in one location.
4. Operational ineffectiveness of the IDF's tools for dealing with the phenomenon.
5. Release or non-continuation of detention of perpetrators.
6. Difficulty incriminating the perpetrators.
7. Complex bureaucracy that impedes submitting complaints against stone throwers.
8. Rules of engagement that favor stone throwers.



Discrepancies between the penalties provided by law and the penalties ordered by the courts

Despite strict legislation in this regard, **there is a discrepancy between the penalties stipulated by law and the penalties ordered by civil and military courts.** This gap is one of the main factors contributing to the **lack of deterrence**, resulting directly in a **sharp increase in incidents** over the last two years.

In order to examine the discrepancy between the penalties stipulated by law for offenses of targeting Israelis with stones and Molotov cocktails, and the actual sentences ordered by the civil and military courts, we reviewed data from the Military Advocate General related to cases opened for these types of offenses **between 2019-2020** (specifically between 1/1/2019-12/10/2020).

419 cases were opened in total for stone throwing, and 262 cases were opened for Molotov cocktail throwing. A comparative analysis we conducted revealed that this rate of legal proceedings is significantly lower than the rate of actual offenses: during the first half of 2020, **only 21% of the stone throwing incidents and 33% of the Molotov cocktail incidents ended with an indictment.**¹

Our data analysis reveals a severe picture of **significant leniency in sentencing by courts in comparison to the penalties mandated by law: the sentences are 95% shorter than the duration of the sentences stipulated by law.**

¹ According to the Advocate's data, during the first half of 2020, 217 cases were opened for stone throwing and 94 cases were opened for Molotov cocktails, compared to 1,033 and 284 reported incidents respectively according to the summarized report by "Rescue Without Borders" for the first half of 2020.

Stone throwing: Although the penalty stipulated by law is fixed at **10-20 years maximum**, in **11% of the cases no prison sentence was imposed**; in all other cases, the average prison sentence was **92-96% shorter than the sentencing parameters provided by law**:

- The average **fine** was **2552 NIS**, ranging from 250 NIS to 8,000 NIS.
- The average **probation period** was **merely 6.2 months**, ranging from 15 days to 3 years (the latter applies to only two cases, a considerable gap from all other cases).
- The average **prison sentence** was **merely 8.3 months**, ranging from 2 days to 3 years (in only 5 cases, a considerable gap from all other cases).

Molotov cocktail throwing: Although the penalty stipulated by law is fixed at **15-25 years maximum**, in **5% of the cases no prison sentence was imposed**; in all other cases, the average prison sentence was **93-96% shorter than the sentencing parameters provided by law**:

- The average **fine** was **3,000 NIS**, ranging from 500 NIS to 10,000 NIS.
- The average **probation period** was **merely 12.85 months**, ranging from 15 days to two years, with only one exception - a single case resulting in a 12-year probation). All the others were less than two years.
- The average **prison sentence** was **merely 13 months**, ranging from 3 days to 4.9 years (once again, only one case generated the longest sentence).

Note that the circumstances in which some of the cases were closed with no prison term require a case-by-case review.

Obstacles to addressing this challenge

1. The complaints and testimonies of victims submitted at the various police stations **are not forwarded** to the police's hostile terror attacks units and the IDF units that are in charge of enforcing the relevant laws.
2. **A shortage of investigators** and their limited availability for submitting complaints against stone throwers.
3. **An absence of thorough, methodical intelligence** on stone throwers and their facilitators, due to the low priority and a shortage in human resources.
4. **Few detentions by IDF forces of stone throwers** due to a lack of incriminating intelligence and a lack of human resources compared to the quantity of attacks.
5. **Soldiers are not instructed to submit complaints.** Rather, the offense is dealt with as part of the soldiers' routine security activities.
6. Due to the complex bureaucracy impeding the submission of complaints by soldiers and civilians, for cases that reach the military courts, the Military Advocate General is required to carry out legal proceedings against the perpetrators equipped with **only a partial picture of the incidents** as well as a lack of evidence. Therefore, **the Military Advocate General is compelled in many cases to reach lenient settlements with the terrorists.**
7. Courts have developed over the years a **"widely-accepted sentencing range" culture** that differs from the penalties stipulated by law, based on precedents in previous cases. The penalty level that guides the courts in their decisions is therefore significantly less stringent than the penalties provided by law. **All of the Molotov cocktail throwing cases reviewed ended up as closed or open settlements, alongside all stone throwing cases reviewed** (except for three, which were closed after gaining evidence or after a confession).

Recommendations

1. **Specific regions should be classified as areas in which stone and Molotov cocktail throwing are considered attempted homicide, thereby enabling defensive actions such as shooting to neutralize the danger.** According to Israeli law, throwing stones at a passing vehicle is defined as a severe crime that requires a harsh reaction for deterrence.
2. Designating certain zones as ones in which throwing stones and Molotov cocktails should be considered as a **life-threatening terrorist attack and an attempted homicide**, thereby enabling **taking defensive measures such including the use of lethal force in order to neutralize the danger.**
3. A concentrated effort should be made to **detain recruiters, inciters, and instructors of perpetrators**, and action should be taken against radical anarchist organizations encouraging and organizing riots.
4. **Complaints against stone or Molotov cocktail throwing should not be closed until at least three months have passed since the case was opened.** During that time, the police unit to which the complaints were submitted should review the cases from time to time, and at least once a week review the cases of suspects interrogated for hostile terror attacks and compare them to stone throwing incidents and complaints that match notices received about the suspects to find similarities between cases.
5. Build a **digital database that synchronizes data** including victims' complaints, the dates of the incidents, alerts about suspects, etc.
6. Enforce **stricter penalties for stone and Molotov cocktail throwers** and other terrorism offenses by **formulating and legislating special provisions**, which include, inter alia, **minimum penalties stipulated in law, independent of the courts' discretion.**

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Appendix A - Relevant legislative extracts

Below are references to the provisions of laws in Israel and in the Judea and Samaria codex related to stone and Molotov cocktail throwing. The references are not exhaustive, and they are based on the assumption that no injury was caused.

Stone throwing offenses:

Civil courts

Penal Code	332a. a) A person throwing or shooting a stone or any other object toward a moving vehicle in a manner that endangers the passenger or any person in close proximity to the vehicle, or which may harm the vehicle in circumstances that may give rise to fear or panic, is subject to a ten-year prison sentence. b) A person throwing or shooting a stone or any other object toward a moving vehicle, in a manner that threatens the safety of the passenger or any person in close proximity to the vehicle with the intention of harming the passenger or any person around the aforementioned vehicle, is subject to a twenty-year prison sentence.
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Military courts (Judea and Samaria)

Order on Security Directives	212. Any person throwing an object, including a stone, 1) in a manner that harms or may harm the traffic in a transportation lane, or in a manner that may harm a vehicle, or threaten the safety of the passenger or any person in close proximity to the vehicle is subject to a ten-year prison sentence; 2) at a person or property with the intention of harming the person or their property is subject to a ten-year prison sentence; 3) at a moving vehicle with the intention of harming it or its passenger is subject to a twenty-year prison sentence.
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Offenses related to Molotov cocktails:

Civil courts

Defense-related provisions (See in the below table)	58. No person shall a) shoot with any firearm at any person or group of persons, or at any location where persons might be present, or b) throw or place a bomb, a hand grenade, or a flammable object with the intention of causing death or injury to any person, or harm to any property, or c) possess any firearm, weaponry, bomb, hand grenade or any explosive or flammable object without a permit provided by a military officer or on his behalf, or in any other way other than in accordance with the provisions of that same permit, or d) be a member of a group or body of persons, where one or more of the members have during their membership in that group or body, violated or is currently violating these rules. Penalty: Death or a lesser penalty as ordered by the court.
The Penal Code	Manufacturing of Molotov cocktails 144. a) A person purchasing or possessing a weapon without a legal permit is subject to a seven-year sentence. However, if the weapon is a part, an accessory or ammunition as defined in subparagraph c(1), or (2), he is subject to a three-year prison sentence. b) A person possessing or transporting a weapon without a legal permit is subject to a ten-year prison sentence. However, if the weapon was a part, an accessory or ammunition as defined in subparagraph c(1), or (2), he is subject to a three-year prison sentence.

	329. (a) A person committing one of the offenses below with the intention of causing permanent disability or deformity to a person, or a severe injury, or resisting an arrest or a lawful detention against them or another party, or preventing such detention or hindering it as mentioned above, is subject to a twenty-year prison sentence: 1) injures a person or causes them a severe, unlawful injury; 2) unlawfully attempts to harm a person with a bullet, knife, stone or a dangerous or otherwise destructive armament; 3) unlawfully causes the detonation of an explosive; 4) sends or hands to a person an explosive device or any other dangerous or harmful object or causes a person to receive any material or object as mentioned above; 5) places at any location whatsoever a crushing or an explosive material or a corrosive liquid; 6) throws at a person a solid or liquid material as mentioned above in paragraph (5) or uses them on his body in any other way.
The Anti-Terrorism Law	28. (a) Anyone committing one of the offenses below, which constitutes a preparation for committing a terrorism offense, is subject to half the penalty stipulated for these offenses without making the penalty stipulated in subparagraph (b) stricter. In case the aforementioned offense is an offense bearing a mandatory life sentence, the perpetrator of any of the offenses below is subject to a 15-year prison sentence: 1) Preparation of a compound or a site for committing the aforementioned offense, or for escaping after its completion; 2) Forging documents in order to commit the aforementioned offense. For the purpose of this subject, 'forging' and 'document' shall have the meaning defined in paragraph 414 of the Penal Code; 3) Preparation of means for committing the aforementioned offense, including weapons, materials, documents, means of photography and recording, costumes and vehicles, or possession of the aforementioned means; 4) Collection or forwarding of information for committing the aforementioned offense; 5) Preparation of a way, passage, or tunnel for committing the aforementioned offense or for escaping after its completion. (b) Regarding subparagraph (a), the aforementioned shall apply whether the action was intended for committing a specific or

	nonspecific terror offense, or whether the terror act that the person participated in the preparation of was planned to be carried out by themselves or any other party. (c) For a person attempting to commit an act as mentioned in subparagraph (a) without completing the act out of regret, as mentioned in paragraph 28 of the Penal Code, the provisions of the same paragraph shall apply.
	37. (a) A person committing an offense that is a terror act, with the exception of the below detailed offenses, is subject to double the penalty stipulated for the same offense, but not more than 25 years: 1) Offense according to this law. 2) Offense according to subparagraph (b), or subparagraph (d) of Chapter G of the Penal Code. 3) An offense whose penalty is a mandatory life sentence. (b) Notwithstanding the aforementioned in paragraph 41 of the Penal Code, a person committing an offense that is a terror act whose penalty is a non-mandatory life sentence is subject to a 30-year sentence. (c) Any reinforcement of this penalty shall not apply to the minimum penalty determined for the offense. (d) Should the court determine that a person committed a crime which constitutes a terror attack or convicts a person of the aforementioned offense, it shall be noted in their verdict.

Note: The use of the defense rules of the civil courts is extremely limited. An attempt to search for another offense that can match the circumstances discussed in this document was conducted. For example, for an arson offense in Penal Code 448(a), a person purposely setting fire on an object that does not belong to him is subject to a fifteen-year prison sentence. If they do so with the intention of harming state property, property that serves the public, a natural site, vegetation or the safety of local residents or with the intention of harming persons, he is subject to a twenty-year prison sentence.

Military courts

Defense-related provisions	58. No person shall: a) shoot with any firearm whatsoever at any person or any group of persons, or at any place where persons may be present, or b) throw or place a bomb, hand grenade, or a flammable object with the intention of causing death or injury to any person whatsoever or harm to any property whatsoever, or c) carry any firearm, ammunition, hand grenade, or an explosive or a flammable object without a permit provided by a military officer or on their behalf, or in any other way other than in accordance with the provisions of that same permit, or d) be a member of any group or body of persons, where one or more of the members violated these rules during the time of their membership in such group or body or are violating these rules. Penalty: Death or a lesser penalty as the court may order.
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Appendix B – Contrasting the Length of Sentences Dispensed by the Courts to the Range of Penalties Mandated by Law

Period reviewed: January 1st, 2019 – October 12th, 2020

	Number of cases	The penalty stipulated by law	Actual Sentence Adjudicated in Court			Discrepancy between the legislation and the penalties in practice	
			Average fine (in NIS)	Average probation	Average prison sentence	Number of cases closed without a prison sentence	Average prison sentence in comparison to the sentence as stipulated by law
Stone throwing	419	10-20 years	2552	6.2 months	8.3 months	11%	92-96% shorter
Molotov cocktail throwing	262	15-25 years	3000	12.85 months	13 months	5.8%	93-96% shorter

*Stone throwing: 376 out of 419 cases end with a prison sentence (89.7%), of which 32 ended with more than one count.

Molotov cocktail throwing: 248 out of 262 cases end with a prison sentence (94.6%), of which 29 ended with more than one count.

** Data from the Military Advocate General.

Details of proceedings with a central indictment category – flammable object throwing, 2019-2020.

Details of proceedings with a central indictment category – stone throwing, 2019-2020.